



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2010 REGULAR SESSION

SENATE BILL NO. 17

TUESDAY, MARCH 9, 2010

The following bill was reported to the House from the Senate and ordered to be printed.

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DATE March 25, 2010
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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adles

AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 ➔ Section 1. KRS 510.060 is amended to read as follows:

2 (1) A person is guilty of rape in the third degree when:

3 (a) He engages in sexual intercourse with another person who is incapable of
4 consent because he or she is mentally retarded;

5 (b) Being twenty-one (21) years old or more, he or she engages in sexual
6 intercourse with another person less than sixteen (16) years old;

7 (c) Being twenty-one (21) years old or more, he or she engages in sexual
8 intercourse with another person less than eighteen (18) years old and for
9 whom he or she provides a foster family home as defined in KRS 600.020;[
10 or]

11 (d) Being a person in a position of authority or position of special trust, as defined
12 in KRS 532.045, he or she engages in sexual intercourse with a minor under
13 sixteen (16) years old with whom he or she comes into contact as a result of
14 that position; or

15 (e) Being a jailer, or an employee, contractor, vendor, or volunteer of the
16 Department of Corrections, Department of Juvenile Justice, or a detention
17 facility as defined in KRS 520.010, or of an entity under contract with either
18 department or a detention facility for the custody, supervision, evaluation,
19 or treatment of offenders, he or she subjects a person who he or she knows
20 is incarcerated, supervised, evaluated, or treated by the Department of
21 Corrections, Department of Juvenile Justice, detention facility, or
22 contracting entity, to sexual intercourse.

23 (2) Rape in the third degree is a Class D felony.

24 ➔ Section 2. KRS 510.090 is amended to read as follows:

25 (1) A person is guilty of sodomy in the third degree when:

- 1 (a) He engages in deviate sexual intercourse with another person who is incapable
2 of consent because he or she is mentally retarded;
- 3 (b) Being twenty-one (21) years old or more, he or she engages in deviate sexual
4 intercourse with another person less than sixteen (16) years old; or
- 5 (c) Being twenty-one (21) years old or more, he or she engages in deviate sexual
6 intercourse with another person less than eighteen (18) years old and for
7 whom he or she provides a foster family home as defined in KRS 600.020;[
8 or]
- 9 (d) Being a person in a position of authority or position of special trust, as defined
10 in KRS 532.045, he or she engages in deviate sexual intercourse with a minor
11 less than sixteen (16) years old with whom he or she comes into contact as a
12 result of that position; or
- 13 (e) Being a jailer, or an employee, contractor, vendor, or volunteer of the
14 Department of Corrections, Department of Juvenile Justice, or a detention
15 facility as defined in KRS 520.010, or of an entity under contract with either
16 department or a detention facility for the custody, supervision, evaluation,
17 or treatment of offenders, he or she subjects a person who he or she knows
18 is incarcerated, supervised, evaluated, or treated by the Department of
19 Corrections, Department of Juvenile Justice, detention facility, or
20 contracting entity, to deviate sexual intercourse.
- 21 (2) Sodomy in the third degree is a Class D felony.
- 22 ➔Section 3. KRS 510.120 is amended to read as follows:
- 23 (1) A person is guilty of sexual abuse in the second degree when:
- 24 (a) He or she subjects another person to sexual contact who is incapable of
25 consent because he or she is mentally retarded;
- 26 (b) He or she is at least eighteen (18) years old but less than twenty-one (21) years
27 old and subjects another person who is less than sixteen (16) years old to

1 sexual contact; or

2 (c) Being a jailer, or an employee, contractor, vendor, or volunteer of the
 3 Department of Corrections, Department of Juvenile Justice, or a detention
 4 facility as defined in KRS 520.010, or of an entity under contract with either
 5 ~~[the]~~ department or a detention facility for the custody, supervision,
 6 evaluation, or treatment of offenders, he or she subjects a person who is at
 7 least eighteen (18) years old and~~[an offender]~~ who he or she knows is
 8 incarcerated, supervised, evaluated, or treated by the Department of
 9 Corrections, Department of Juvenile Justice,~~[the]~~ detention facility, or~~[the]~~
 10 contracting entity, to sexual contact.~~[In any prosecution under this paragraph,~~
 11 ~~the defendant may prove in exculpation that, at the time he or she engaged in~~
 12 ~~the conduct constituting the offense, he or she and the offender were married~~
 13 ~~to each other.]~~


14 (2) In any prosecution under subsection (1)(b) of this section, it is a defense that:

15 (a) The other person's lack of consent was due solely to incapacity to consent by
 16 reason of being less than sixteen (16) years old; and

17 (b) The other person was at least fourteen (14) years old; and

18 (c) The actor was less than five (5) years older than the other person.

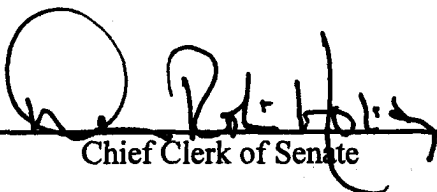
19 (3) Sexual abuse in the second degree is a Class A misdemeanor.



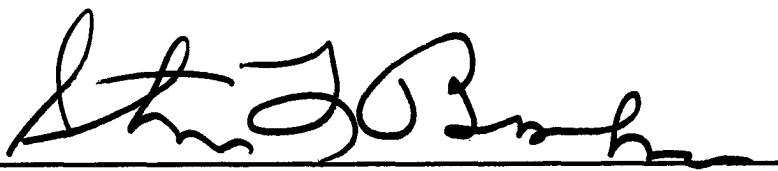
President of Senate



Speaker-House of Representatives

Attest: 

Chief Clerk of Senate

Approved 

Governor

Date March 25, 2010